



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

June 9, 2020

OFFICE OF CONGRESSIONAL AND  
INTERGOVERNMENTAL RELATIONS

The Honorable Frank Pallone, Jr.  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the U.S. Environmental Protection Agency, I am writing in response to your letter dated April 3, 2020, to Administrator Andrew Wheeler, regarding the November 8, 2019 legal opinion from EPA General Counsel Matthew Z. Leopold with respect to the EPA Office of Inspector General (OIG).

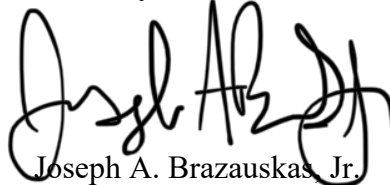
The allegations contained within your April 3 letter, regarding an alleged departure from the legal analysis contained within his November 8 legal opinion are incorrect. This mischaracterization reflects an error in the Committees' description of the General Counsel's memorandum and the series of events that resulted in the Seven-Day Letter. Additionally, the other statements contained within your April 3 letter mischaracterize the Agency's ongoing cooperation with the OIG.

The Agency provided two separate briefings to Committee staff, on December 19, 2019 and on January 24, 2020, regarding the Seven-Day Letter and the November 8 legal opinion. During the briefings and in numerous public statements, the Agency has emphasized that we have cooperated and continue to cooperate with the OIG. In both briefings, we reassured the Committees that nothing in the November 8 legal opinion changed the Administrator's stance on OIG cooperation, that he has always encouraged and continues to encourage cooperation. Mr. Leopold expressly stated that to Committee staff on several occasions throughout the January 24 briefing. Administrator Wheeler has also made it clear to the Agency that he expects all employees to cooperate with the OIG in his Agency-wide communication, dated August 8, 2018. Moreover, the Administrator once again reaffirmed this commitment in February during his testimony before the House Committee on Energy and Commerce.

Yet your letter indicates that the Committees still struggle to understand the contents of the November 8 legal opinion as it relates to OIG cooperation. That confusion is not shared by the employees at the Agency. However, as an accommodation to the Committees, EPA offers an additional briefing to the Committees to clarify the scope and meaning of the November 8 legal opinion. Further, as we have previously explained, Mr. Leopold signed the opinion and he stands behind all of its contents. Any advice he or the Administrator received from other attorneys in the Office of General Counsel is privileged deliberative attorney-client communications and/or work product.

The EPA recognizes the importance of the Committees' need to obtain information necessary to perform its legitimate oversight functions and is committed to continuing to work with your staff on how best to accommodate the Committees' interests. If you have further questions, you may contact me, or your staff may contact Kristien Knapp in the EPA's Office of Congressional and Intergovernmental Relations at Knapp.Kristien@epa.gov or (202) 564-3277.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph A. Brazauskas, Jr.", written in a cursive style.

Joseph A. Brazauskas, Jr.  
Associate Administrator

cc: The Honorable Greg Walden, Ranking Member